

# **CHAPTER 208-472 WAC**

## **CREDIT UNION FIELD OF MEMBERSHIP EXPANSION**

*(Formerly chapter 419-72 WAC)*

*Last Update: 8/20/96*

### **WAC**

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**WAC 208-472-010 – Purpose.** This chapter is adopted by the director for the purpose of establishing the application process for a credit union to include in its field of membership a separate group:

(1) With a common bond of occupation or association; or

(2) That constitutes a community.

*[Recodified as § 208-472-010, filed 2/23/96, effective 6/1/96. Statutory Authority: RCW 31.12.045, [31.12].115 and [31.12].535. 95-09-049, § 419-72-010, filed 4/17/95, effective 5/18/95. Statutory Authority: RCW 31.12.045(2), 31.12.115, 31.12.516 and 31.12.535. 89-24-085 (Order 89-3), § 419-72-010, filed 12/6/89, effective 1/6/90.]*

**WAC 208-472-012 – General requirement.** RCW 31.12.045 limits credit union membership "to groups having a common bond of occupation or association, or to groups within a well-defined neighborhood, community, or rural district." Consequently, any group included within the field of membership of a credit union must:

(1) Share a common bond of occupation or association; or

(2) Constitute a community.

A credit union may include different types of groups in its field of membership.

*[Recodified as § 208-472-012, filed 2/23/96, effective 6/1/96. Statutory Authority: RCW 31.12.045, [31.12].115 and [31.12].535. 95-09-049, § 419-72-012, filed 4/17/95, effective 5/18/95.]*

**WAC 208-472-015 – Definitions.** Unless the context clearly requires otherwise, as used in this chapter:

(1) "Affiliate" of an enterprise means a person that controls, is controlled by, or is under common control with, the enterprise. "Control" means twenty-five percent or greater stock ownership.

(2) "Common bond of association" means a current, unifying factor among a group of natural persons, that is based on membership in a bona fide organization whose primary purpose is other

than providing eligibility for credit union services. Such an organization must be primarily composed of natural persons who are eligible to participate in the organization's activities. Such an organization also must have clearly defined membership eligibility and must hold regular meetings at least once each year.

Matriculating students of an accredited college or university, who are members of an identified organization, other than general members of the applicant's credit union, are deemed to have a common bond of association. The organization need not satisfy the requirements set forth in the prior paragraph.

(3) "Common bond of occupation" means a current, unifying factor among a group of natural persons that is based on employment by or a work-related relationship with an enterprise. The group may include only the following categories of persons:

- (a) Employees of the enterprise, and their family members;
- (b) Employees of any subsidiaries of the enterprise, and their family members;
- (c) Employees of the affiliates of the enterprise, and their family members;
- (d) Nonemployee officials of the enterprise, and their family members; and
- (e) Natural persons under contract to work regularly for the enterprise, and their family members.

Each of these categories may be included if they are separately identified in the credit union's bylaws.

(4) "Community" means a current unifying factor among a group of natural persons, that is based on residence or employment within a well-defined and relatively limited geographic area, with a relatively limited population, that is recognized by those who live or work there as a neighborhood, community, or rural district.

For example, the city of Seattle and King County do not constitute a community for this purpose, because they do not have a relatively limited population. On the other hand, the city of Chelan and Chelan school district are within a well-defined and relatively limited geographic area, with a relatively limited population, and may constitute a community if they are recognized by those who live or work there as a neighborhood, community or rural district. (These examples are based on circumstances existing on December 1, 1994.)

(5) "Credit union" means a credit union organized and operating under chapter 31.12 RCW.

(6) "Director" means the director of the Washington state department of financial institutions.

(7) "Number of potential members" means the sum of:

- (a) The number of actual members of the applicant credit union; and
- (b) The number of employees or members (as appropriate) of the group applied for.

(8) "Required number" means:

- (a) If the number of employees or members (as appropriate) of the specified group is two thousand one or more, the required number is at least five percent of the number of these individuals (rounded up to the nearest whole number).
- (b) If the number of employees or members (as appropriate) of the specified group is from three hundred thirty to two thousand, the required number is at least one hundred of these individuals.
- (c) If the number of employees or members (as appropriate) of the specified group is three hundred twenty-nine or less, the required number is at least thirty percent of the number of these individuals (rounded up to the nearest whole number).

*[Statutory Authority: RCW 31.12.045(1) and [31.12].535. 96-17-070, § 208-472-015, filed 8/20/96, effective 9/20/96. Recodified as § 208-472-015, filed 2/23/96, effective 6/1/96. Statutory*

*Authority: RCW 31.12.045, [31.12].115 and [31.12].535. 95-09-049, § 419-72-015, filed 4/17/95, effective 5/18/95. Statutory Authority: RCW 31.12.045(2), 31.12.115, 31.12.516 and 31.12.535. 89-24-085 (Order 89-3), § 419-72-015, filed 12/6/89, effective 1/6/90.]*

**WAC 208-472-020 – Inclusion of a group with a common bond of occupation.** Except as permitted by WAC 208-472-041, if a credit union wants to include a separate group with a common bond of occupation in its field of membership, it must make application to the director to amend its bylaws in accordance with RCW 31.12.115. The application must be submitted to the director in duplicate and must include the information as required by WAC 208-472-025.

*[Statutory Authority: RCW 42.320.040 [43.320.040] and 31.12.535. 96-17-071, § 208-472-020, filed 8/20/96, effective 9/20/96. Recodified as § 208-472-020, filed 2/23/96, effective 6/1/96. Statutory Authority: RCW 31.12.045, [31.12].115 and [31.12].535. 95-09-049, § 419-72-020, filed 4/17/95, effective 5/18/95. Statutory Authority: RCW 31.12.045(2), 31.12.115, 31.12.516 and 31.12.535. 89-24-085 (Order 89-3), § 419-72-020, filed 12/6/89, effective 1/6/90.]*

**WAC 208-472-025 – Application to include a separate occupational group.** (1) The application to include a separate group with a common bond of occupation must include at least the following information:

- (a) The name of the applicant credit union;
  - (b) Evidence that the applicant's board of directors has complied with the notice and voting requirements of RCW 31.12.115;
  - (c) A description of the enterprise including its name, number of employees, and the geographic location of those employees. The categories of persons specified in WAC 208-472-015(2) that are included in the group must be separately identified;
  - (d) A statement from an officer of the enterprise:
    - (i) That the enterprise desires membership for its employees in the applicant; and
    - (ii) Whether its employees are currently eligible for membership, based upon such employment, in another state or federally chartered credit union. If the employees of the enterprise are eligible for membership in another credit union based upon such employment, the applicant must make best efforts to provide a statement of nonobjection from the other credit union.
- (2) In addition, the application must also include the following information if applicable:
- (a) If the number of potential members of the applicant exceeds one hundred twenty percent of the number of its actual members, then the following information must also be submitted:
    - (i) A copy of the applicant's most recent monthly financial statement;
    - (ii) A copy of the applicant's plan or other document demonstrating its ability and intent to provide service to the new group and specific plans relating anticipated growth to capital levels.
  - (b) If the number of employees of the enterprise exceeds five hundred, then the following must also be submitted:
    - (i) An analysis whether the group has sufficient size and resources to form a credit union of its own;
    - (ii) Documentation concerning compliance with plans on penetration and service submitted with previously approved applications for inclusion of a group in the applicant's field of membership;
    - (iii) Documentation that the applicant has given written notice to all other credit

unions headquartered in this state, both state and federally chartered, that have a staffed office in any county in which the offices of the enterprise are located. Credit unions entitled to receive the notice will be given twenty days following receipt of the notice to submit to the department any comments on the application.

(3) If the applicant cannot obtain the letter of nonobjection described in subsection (1)(d) of this section, after having made a best efforts attempt to do so, it must submit documentation that:

(a) The required number of employees of the enterprise desire membership in the applicant; or

(b) The other credit union has failed to adequately serve the group after a reasonable period of time, and how the applicant plans to improve this service.

The applicant must supply a copy of the information required in (a) and (b) of this subsection to the other credit union, which will be given sixty days following receipt of such information to submit to the department any comments on the overlap.

This subsection (3) does not apply to overlaps arising out of merger-type transactions between enterprises.

*[Statutory Authority: RCW 42.320.040 [43.320.040] and 31.12.535. 96-17-071, § 208-472-025, filed 8/20/96, effective 9/20/96. Recodified as § 208-472-025, filed 2/23/96, effective 6/1/96. Statutory Authority: RCW 31.12.045, [31.12].115 and [31.12].535. 95-09-049, § 419-72-025, filed 4/17/95, effective 5/18/95. Statutory Authority: RCW 31.12.045(2), 31.12.115, 31.12.516 and 31.12.535. 89-24-085 (Order 89-3), § 419-72-025, filed 12/6/89, effective 1/6/90.]*

**WAC 208-472-041 – Streamlined procedure for small occupational groups.** (1) Credit unions may apply to the director for approval of an enabling bylaw amendment ("enabling amendment") that enables them to use the streamlined procedure set forth in this section ("SOG procedure") to include small groups with a common bond of occupation ("small occupational groups" or "SOGs") in their field of membership.

(2) The credit union must first apply to the director for approval of an enabling amendment that satisfies the requirements of this section and which complies with RCW 31.12.115. The director shall approve or deny the application in accordance with WAC 208-472-075. Once the application has been approved by the director, the credit union may immediately begin serving SOGs in compliance with this section and the enabling amendment. The enabling amendment may not be amended without the prior approval of the director.

(3) The enabling amendment will in substance permit a credit union to add a SOG to its field of membership if:

(a) The enterprise is located within twenty-five miles from one of the credit union's service facilities;

(b) The enterprise has provided a written request to the credit union for service;

(c) The employees of the enterprise do not have credit union service available based on such employment;

(d) The number of employees of the enterprise do not exceed one hundred or any larger maximum number as authorized by the director; and

(e) The group is included in the credit union's field of membership as specifically identified in amendments to the credit union's bylaws. Such amendments do not require the director's approval.

(4) The credit union must maintain a control log of SOGs included in its field of membership. The control log must include the board approval of the group, the date of the board approval, the name

and location of the enterprise, the number of employees included, and the number of miles to the nearest main or branch office of the enterprise.

(5) The size limit of a SOG is based on the number of employees of the enterprise at the time the bylaws are amended to include the SOG; the size limit does not apply to family members of employees or categories of persons that it may be permissible to include in the group pursuant to the definition of a common bond of occupation in WAC 208-472-015(2). Several groups may be included simultaneously using the SOG procedure, however the number of employees in each SOG must be within the SOG size limit.

(6) The director may revoke the ability of a credit union to use the SOG procedure if the director determines that it is being used to circumvent the regular procedure for inclusion of occupational groups in the credit union's field of membership.

*[Statutory Authority: RCW 42.320.040 [43.320.040] and 31.12.535. 96-17-071, § 208-472-041, filed 8/20/96, effective 9/20/96. Recodified as § 208-472-041, filed 2/23/96, effective 6/1/96. Statutory Authority: RCW 31.12.045, [31.12].115 and [31.12].535. 95-09-049, § 419-72-041, filed 4/17/95, effective 5/18/95.]*

**WAC 208-472-045 – Inclusion of a group with a common bond of association.** If a credit union wants to include a separate group with a common bond of association in its field of membership it must make application to the director to amend its bylaws in accordance with RCW 31.12.115. The application must be submitted to the director in duplicate and must include the information as required by WAC 208-472-050.

*[Statutory Authority: RCW 42.320.040 [43.320.040] and 31.12.535. 96-17-071, § 208-472-045, filed 8/20/96, effective 9/20/96. Recodified as § 208-472-045, filed 2/23/96, effective 6/1/96. Statutory Authority: RCW 31.12.045, [31.12].115 and [31.12].535. 95-09-049, § 419-72-045, filed 4/17/95, effective 5/18/95. Statutory Authority: RCW 31.12.045(2), 31.12.115, 31.12.516 and 31.12.535. 89-24-085 (Order 89-3), § 419-72-045, filed 12/6/89, effective 1/6/90.]*

**WAC 208-472-050 – Application to include a separate associational group.** (1) The application to include a separate group with a common bond of association must include at least the following information:

- (a) The name of the applicant credit union;
- (b) Evidence that the applicant's board of directors has complied with the notice and voting requirements of RCW 31.12.115;
- (c) A detailed description of the group including its charter or articles of incorporation, its bylaws, the qualifications and requirements for membership, and the number and geographic location of its current members;
- (d) A resolution from the petitioning group's governing body:
  - (i) That the members have been informed of the proposal to affiliate with the applicant and desire to be associated with the applicant;
  - (ii) Whether the members of the group are currently eligible for membership, based upon their association, in a state or federally chartered credit union. If the members of the association are eligible for membership in another credit union based upon membership in the association, the applicant must make best efforts to provide a statement of nonobjection from the other credit union;

- (e) A statement by the applicant that its direct marketing efforts will be aimed at active members of the group and that the group will not be used as a vehicle for opening eligibility for credit union membership to the general public;
- (2) In addition, the application must also include the following information if applicable:
  - (a) If the number of potential members of the applicant exceeds one hundred twenty percent of its actual members, then the following information must also be submitted:
    - (i) A copy of the applicant's most recent monthly financial statement;
    - (ii) A copy of the applicant's plan or other document demonstrating its ability and intent to provide service to the new group and specific plans relating anticipated growth to capital levels.
  - (b) If the number of members of the association exceeds five hundred, then the following information must also be submitted:
    - (i) An analysis whether the group has sufficient size and resources to form a credit union of its own;
    - (ii) Documentation concerning compliance with plans on penetration and service submitted with previously approved applications for inclusion of a group in the applicant's field of membership;
    - (iii) Documentation that the applicant has given written notice to all other credit unions headquartered in the state, both state and federally chartered, that have a staffed office in any county in which members of the association reside. Credit unions entitled to receive the notice will be given twenty days following receipt of the notice to submit to the department any comments on the application.
- (3) If the applicant cannot obtain the letter of nonobjection described in subsection (1)(d) of this section, after having made a best efforts attempt to do so, it must submit documentation that:
  - (a) The required number of members of the association desire membership in the applicant; or
  - (b) The other credit union has failed to adequately serve the group after a reasonable period of time, and how the applicant plans to improve this service.

The applicant must supply a copy of the information required in (a) and (b) of this subsection to the other credit union, which will be given sixty days following receipt of such information to submit to the department any comments on the overlap.

This subsection (3) does not apply to overlaps arising out of merger-type transactions between associations.

*[Recodified as § 208-472-050, filed 2/23/96, effective 6/1/96. Statutory Authority: RCW 31.12.045, [31.12].115 and [31.12].535. 95-09-049, § 419-72-050, filed 4/17/95, effective 5/18/95. Statutory Authority: RCW 31.12.045(2), 31.12.115, 31.12.516 and 31.12.535. 89-24-085 (Order 89-3), § 419-72-050, filed 12/6/89, effective 1/6/90.]*

**WAC 208-472-060 – Inclusion of a community group.** If a credit union wants to include in its field of membership a separate group which constitutes a community, it must make application to the director to amend its bylaws in accordance with RCW 31.12.115. The application must be submitted to the director in duplicate and must include the information as required by WAC 208-472-065.

*[Statutory Authority: RCW 42.320.040 [43.320.040] and 31.12.535. 96-17-071, § 208-472-060, filed 8/20/96, effective 9/20/96. Recodified as § 208-472-060, filed 2/23/96, effective 6/1/96. Statutory Authority: RCW 31.12.045, [31.12].115 and [31.12].535. 95-09-049, § 419-72-060, filed*

*4/17/95, effective 5/18/95. Statutory Authority: RCW 31.12.045(2), 31.12.115, 31.12.516 and 31.12.535. 89-24-085 (Order 89-3), § 419-72-060, filed 12/6/89, effective 1/6/90.]*

**WAC 208-472-065 – Application to include a separate community group.** The application to include a community must include at least the following information:

- (1) The name of the applicant credit union;
  - (2) Evidence that the applicant's board of directors has complied with the notice and voting requirements of RCW 31.12.115;
  - (3) A detailed description of the community, neighborhood or rural district including a map setting forth its geographic boundaries and its current population;
  - (4) A detailed description of how the proposed community meets the definition set forth in WAC 208-472-015(3);
  - (5) Letters of support from community organizations and/or residents of the area demonstrating their desire to be associated with the applicant and their willingness to support its objectives;
  - (6) Any other information that demonstrates the community's desire to have the services of a credit union;
  - (7) A copy of the applicant's most recent monthly financial statement;
  - (8) A copy of the applicant's plan or other document demonstrating its ability and intent to provide service to the new group and specific plans relating anticipated growth to capital levels. Among other provisions, the plan or other document must include a provision that the applicant will not conduct direct marketing aimed at any occupational or associational group with an office in the community if the group is included in the field of membership of another state or federally chartered credit union. In addition, applicants are encouraged to include provision in the plan or other document for active participation in community activities;
  - (9) Evidence that the applicant has given written notice to all other credit unions headquartered in the state, both state and federally chartered, that have staffed offices in or within five miles of the boundaries of the community. Credit unions entitled to receive the notice will be given twenty days following receipt of the notice to submit to the department any comments on the application; and
  - (10) Documentation concerning compliance with plans on penetration and service submitted with previously approved applications for inclusion of a group in the applicant's field of membership.
- [Statutory Authority: RCW 42.320.040 [43.320.040] and 31.12.535. 96-17-071, § 208-472-065, filed 8/20/96, effective 9/20/96. Recodified as § 208-472-065, filed 2/23/96, effective 6/1/96. Statutory Authority: RCW 31.12.045, [31.12].115 and [31.12].535. 95-09-049, § 419-72-065, filed 4/17/95, effective 5/18/95. Statutory Authority: RCW 31.12.045(2), 31.12.115, 31.12.516 and 31.12.535. 89-24-085 (Order 89-3), § 419-72-065, filed 12/6/89, effective 1/6/90.]*

**WAC 208-472-070 – Application deemed complete.** An application filed pursuant to this chapter is deemed complete when:

- (1) The director has received all of the information required by this chapter;
- (2) If the applicant credit union is required to provide notice to other credit unions pursuant to WAC 208-472-025(2), 208-472-050(2) or 208-472-065(9), at least twenty days have passed since the applicant gave the notice to other credit unions; and
- (3) If the applicant is required to supply certain information to another credit union pursuant to WAC 208-472-025(3) or 208-472-050(3), at least sixty days have passed since the applicant supplied the required information to the other credit union.

If an incomplete application is received, the director will give written notice to the applicant no later

than thirty days from the date the original application was received that further information is necessary. The applicant will be allowed thirty days after receipt of the notice to provide the requested information.

*[Statutory Authority: RCW 42.320.040 [43.320.040] and 31.12.535. 96-17-071, § 208-472-070, filed 8/20/96, effective 9/20/96. Recodified as § 208-472-070, filed 2/23/96, effective 6/1/96. Statutory Authority: RCW 31.12.045, [31.12].115 and [31.12].535. 95-09-049, § 419-72-070, filed 4/17/95, effective 5/18/95. Statutory Authority: RCW 31.12.045(2), 31.12.115, 31.12.516 and 31.12.535. 89-24-085 (Order 89-3), § 419-72-070, filed 12/6/89, effective 1/6/90.]*

**WAC 208-472-075 – Approval of application.** The director shall give written approval or denial of an application made in conformance with this chapter within thirty days from the date it is deemed complete. The director's decision will take into consideration the following general criteria and other issues or facts that may be relevant to the application:

- (1) Whether the application is consistent with the provisions of chapter 31.12 RCW and this chapter;
- (2) Whether the applicant credit union is currently operating in conformance with the provisions of chapter 31.12 RCW, applicable rules in Title 208 WAC, and written supervisory orders, directives and agreements;
- (3) Whether the proposed new group possesses a common bond of occupation or association, or constitutes a community, as defined in WAC 208-472-015;
- (4) If the application involves the inclusion of a group based on a common bond of occupation or association, whether the proposed new group has sufficient size and resources to form a credit union of its own;
- (5) Whether the applicant is in a safe and sound condition and possesses the financial and managerial capability to provide credit union service to the proposed group in a safe and sound manner;
- (6) Whether the applicant has complied with plans on penetration and service submitted with previously approved applications for inclusion of a group in the applicant's field of membership;
- (7) Whether approval of the application might reasonably threaten the viability of another credit union;
- (8) Whether the applicant is using the inclusion of the group as a marketing strategy to preempt expansion by other credit unions; and
- (9) Whether approval of the application will adversely impact the safety and soundness of the applicant.

The approval of a credit union's application for inclusion of a community group in its field of membership will not preclude approval of another credit union's application to include the same or a portion of the same community group in its field of membership.

*[Statutory Authority: RCW 42.320.040 [43.320.040] and 31.12.535. 96-17-071, § 208-472-075, filed 8/20/96, effective 9/20/96. Recodified as § 208-472-075, filed 2/23/96, effective 6/1/96. Statutory Authority: RCW 31.12.045, [31.12].115 and [31.12].535. 95-09-049, § 419-72-075, filed 4/17/95, effective 5/18/95. Statutory Authority: RCW 31.12.045(2), 31.12.115, 31.12.516 and 31.12.535. 89-24-085 (Order 89-3), § 419-72-075, filed 12/6/89, effective 1/6/90.]*

**WAC 208-472-080 – Special circumstances.** An applicant credit union may request that one or more of the provisions of this chapter be waived if an emergency exists which requires immediate inclusion of a separate group in order to preserve the viability of the applicant. The request for



waiver may be granted if, in the opinion of the director, the request has a reasonable probability of remedying an emergency situation.

*[Recodified as § 208-472-080, filed 2/23/96, effective 6/1/96. Statutory Authority: RCW 31.12.045, [31.12].115 and [31.12].535. 95-09-049, § 419-72-080, filed 4/17/95, effective 5/18/95. Statutory Authority: RCW 31.12.045(2), 31.12.115, 31.12.516 and 31.12.535. 89-24-085 (Order 89-3), § 419-72-080, filed 12/6/89, effective 1/6/90.]*